

EX-10 J

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

CRAIG CUNNINGHAM,

Plaintiff,

-vs-

Case No. 16-cv-761

MICHAEL MONTES,
Tollfreezone.com, Inc.,
Mydataguys.com, LLC,
Podmusicgear.com, Inc.,
Tollfreezone.com, Inc.,
dba Docauditor.com,
Tollfreezone.com, Inc.,
dba Mobile Trackme,
Emailmyvmail.com, Inc., and
John and Jane Does 1-10,

Defendants.

Deposition of MICHAEL J. MONTES,
taken at the instance of the Plaintiff, under and
pursuant to Federal Rule of Civil Procedure 30, before
Sarah F. Pelletter, RPR, a Notary Public in and for the
State of Wisconsin, at Axley Brynerson, LLP,
Two East Mifflin Street, Suite 200, Madison, Wisconsin,
on January 14, 2019, commencing at 9:55 a.m. and
concluding at 1:36 p.m.

For The **Record** Inc.

Excellence In Court Reporting

1 I can't log in.

2 Q So in a given business day, approximately how many
3 of those calls do you receive?

10:51AM

4 A Now, probably none, because we haven't taken on
5 too many new clients in a while for that
6 particular platform.

7 Q Is there a reason why you stopped taking on
8 clients for that platform?

9 A The guy sitting next to you.

10:51AM

10 Q You're referring to Craig Cunningham?

11 A Yes.

12 Q And lawsuits that have been filed against you by
13 Craig Cunningham?

14 A Correct.

10:51AM

15 Q So when did you stop taking on clients who are
16 doing telemarketing robocalling?

17 A We still take them on when they call us, but we've
18 stopped advertising it. We're not really pushing
19 it. We're pushing ringless calls. So if somebody
10:51AM 20 calls me, we usually convert them over to ringless
21 calls now.

22 Q So when did you stop advertising and seeking out
23 those clients?

24 A Probably about a year ago.

10:52AM

25 Q I keep going back to this because you keep using

1 that customer will be permanently scrubbed from
2 that particular customer's list.

3 If they -- they have no choice but to scrub
4 against the militant list when they load their
12:28PM 5 data. And the militant list is a list we've
6 compiled over the years of people who are
7 screamers, just absolutely you don't want to
8 contact these people.

9 Q When you use the word *screamers*, what do you mean
10 by that?

11 A People who threaten lawsuits or actually file
12 lawsuits.

13 Q And where do you obtain the information that this
14 phone number is one that you should add to that
12:28PM 15 list?

16 A So customers will send us lists and say, Please
17 remove these people. And so we don't remove them,
18 when they do that, we don't remove them from just
19 one list. We put them in the militant DNC.

12:29PM 20 Q So the militant list that you're talking about is
21 a list that you maintain for your customers who
22 are using the dialer.TO platform?

23 A Correct.

24 Q It's not maintained by Technologic?

12:29PM 25 A It is maintained by Technologic. We just add the

DEPOSITION OF MICHAEL J. MONTES 01/14/2019

1 numbers to their list.

2 Q The list is compiled by you?

3 A Correct.

4 Q Okay. And you were saying the system is set up

12:29PM 5 that if one of your customers calls me, I'm always

6 going to be offered the option to press 9 to not

7 receive further calls in the future?

8 A Assuming that's in their message. Some customers

9 may or may not do it. We don't know because we

12:29PM 10 don't audit their audio files. But we tell

11 everybody to make sure that you have an opt out.

12 Q Well, whether they're telling me to do it or not,

13 the system is set up that if I press 9, it's going

14 to add me onto that specific customer's

12:29PM 15 do-not-call list?

16 A Correct. Right. And so that's the customer DNC.

17 So as a customer, you would have your own bucket

18 of do-not-call lists that you've generated.

19 Q Right. So you really have three do-not-call lists

12:30PM 20 available. There's the federal one maintained by

21 the government, there is your militant list that

22 you maintain, and then each customer would have

23 their own list of people that press 9?

24 A Correct.

12:30PM 25 Q And how do you obtain access to the federal